

AUG 07 2008

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

KEVIN D. SUTTON,

Petitioner - Appellant,

v.

CRAIG FARWELL,

Respondent - Appellee.

No. 06-17346

D.C. No. CV-04-00498-ECR

MEMORANDUM^{*}

Appeal from the United States District Court
for the District of Nevada
Edward C. Reed, District Judge, Presiding

Submitted July 22, 2008^{**}

Before: B. FLETCHER, THOMAS, and WARDLAW, Circuit Judges.

Nevada state prisoner Kevin D. Sutton appeals pro se from the district court's judgment denying his 28 U.S.C. § 2254 habeas petition. We have

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

jurisdiction pursuant to 28 U.S.C. § 2253, and we affirm.

Sutton contends that the state court erred by determining that his guilty plea was knowing and voluntary. However, the record discloses that the trial court ensured that Sutton understood the consequences of his guilty plea. *See Boykin v. Alabama*, 395 U.S. 238, 242-44 (1969). In particular, Sutton acknowledged that he understood the potential sentence and the waiver of his federal constitutional rights set forth in the written plea agreement. The plea hearing transcript also establishes that the trial court thoroughly questioned Sutton and determined that his guilty plea was knowing and voluntary. *See Brady v. United States*, 397 U.S. 742, 747 n.4 (1970). We reject Sutton's claim that disagreements with his attorney rendered his plea involuntary, in light of the totality of the circumstances. *See Doe v. Woodford*, 508 F.3d 563, 570 (9th Cir. 2007). The state court's determination that Sutton knowingly and voluntarily pleaded guilty was neither contrary to, nor an unreasonable application of, clearly established federal law as determined by the Supreme Court. *See* 28 U.S.C. § 2254(d)(1).

We deny Sutton's request to expand the Certificate of Appealability to include the remaining claims raised in the opening brief. *See* 9th Cir. R. 22-1(e); *Hiivala v. Wood*, 195 F.3d 1098, 1104-05 (9th Cir. 1999) (per curiam).

AFFIRMED.